Caution: Complete NQTL Comparative Analysis Still Required

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Employers must maintain a complete non-quantitative treatment limitations ("***NQTLs***") comparative analysis covering all NQTLs despite the DOL's announcement (see below) that it will focus enforcement on particular NQTLs. Employers remain subject to participant requests for disclosure of the full analysis (which must be provided within 30 days), private lawsuits challenging parity violations, and the DOL investigations prompted by participant complaints. Employers should work with their TPAs, insurers, and benefits counsel now to ensure a compliant analysis is in place.

On September 8, 2026, the Employee Benefits Security Administration (the "***EBSA***") issued Field Assistance Bulletin 2026-03 announcing that the Mental Health Parity and Addiction Equity Act ("***MHPAEA***") enforcement will prioritize three NQTL categories: (i) separate treatment limitations, including exclusions; (ii) medical necessity standards and review processes; and (iii) network adequacy standards, including network admission and provider reimbursement. However, the EBSA may investigate other NQTLs as issues arise, particularly in response to participant complaints.

The DOL also issued guidance to assist employers in identifying potential MHPAEA problems. The guidance includes examples of red flags, best practices for selecting health plan service providers, best practices for monitoring operational compliance for specific NQTLs, and examples of how plans have addressed concerns during NQTL investigations.

Field Assistance Bulletin 2026-03 is available here.

The DOL guidance is available here.